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In re Application of
Roberto Aiello et al
Application No. 09/599,969
Filed: June 21, 2000
Attorney Docket No. FAN-00-012

OFFICE OF PETITIONS
DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(f), filed September 20, 2004, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is dismissed as **MOOT**.


The record disclosed that, on June 21, 2000, the date of filing of the instant application, there is no indication that applicants had submitted a nonpublication request under 35 U.S.C. § 122 (b)(2)(B)(i) certifying that “the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.”

In the instant application, since the record fails to disclose that a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was present on filing the application, the filing of a petition to revive is unnecessary and is dismissed as involving a moot issue.

In view of the above, the petition fee of \$665.00 is being credited to Deposit Account No. 50-3143 as authorized.

This matter is being referred to Technology Center 2637.

Any inquiries concerning this decision may be directed to Wan Laymon at (571) 272-3220.


Wan Laymon
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy